

**PLANNING BOARD
RESOLUTION No. 2013-08**


A RESOLUTION OF THE KEY WEST PLANNING BOARD FOR VARIANCE TO A SIDE YARD SETBACK OF 2 FEET AND 8 INCHES FOR AN A/C UNIT FOR PROPERTY LOCATED AT 510 MARGARET STREET (RE#00008220-000000) IN THE HHDR ZONING DISTRICT PER SECTION 90-391, SECTION 122-630(6)B. OF THE LAND DEVELOPMENT REGULATIONS OF THE CODE OF ORDINANCES OF THE CITY OF KEY WEST.

WHEREAS, Section 122-630(6) b of the Code of Ordinances provides that the side yard setback in the HHDR zoning district is 5 feet or 10 percent of lot width to a maximum of 15 feet, whichever is greater; and

WHEREAS, the existing side yard setback of the A/C unit is 0 feet; and

WHEREAS, the applicant requested a variance to side yard setback requirements to allow an air conditioning unit; and

WHEREAS, this matter came before the Planning Board at a duly noticed public hearing on February 21, 2013, and

 Chairman

 Planning Director


WHEREAS, the Planning Board finds that the subject property is legal non-conforming to lot size and other dimensional requirements. The location of the A/C unit is an expansion of the side setback nonconformity. Potential locations of the A/C unit are limited. Numerous properties within the HHDR zoning district have legal non-conformities. As such, there are no special conditions or circumstances associated with this property that are not present throughout the historic district; and

WHEREAS, the Planning Board finds the installation of the equipment in the current location was done on behalf of the owner, thus the condition was created by the applicant; and

WHEREAS, the Planning Board finds that granting the variance request will confer upon the applicant special privileges provisionally denied to other lands, buildings or structures in the same zoning district; and

WHEREAS, the Planning Board finds that if the variance for the proposed location for the A/C unit is denied, the applicant would not be deprived of reasonable use of the land and the existing structure. However, the use of heating and cooling units is enjoyed on other properties in this area; and

WHEREAS, the Planning Board finds that the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure; and

 Chairman

 Planning Director

WHEREAS, the Planning Board finds that the granting of the variance will not be detrimental to the public interest;

WHEREAS, the Planning Board finds that the request is not based on existing conditions on the surrounding properties; and

WHEREAS, the Planning Board finds that the applicant has demonstrated a "good neighbor policy" by contacting or making a reasonable attempt to contact all noticed property owners who have objected to the after the fact variance application, and by addressing the objections expressed by those neighbors;

NOW, THEREFORE, BE IT RESOLVED by the Planning Board of the City of Key West, Florida:

Section 1. That the above recitals are incorporated by reference as if fully set forth herein.

Section 2. That the request for a variance for a side yard setback of two feet and eight inches is granted for property located at 510 Margaret Street (RE# 00008220-000000) in the HHDR zoning district per section 90-391, section 122-630(6)b of the Land Development Regulations of the Code of Ordinances of the City of Key West, as shown on the attached plan

 Chairman

 Planning Director

date stamped February 11, 2013 with the following condition of approval:

1. When the second, existing A/C unit is replaced, the owner shall locate the A/C unit towards the rear of the property immediately adjacent to the location of the A/C location approved for this variance.
2. The gate on the right side of the house remains unlocked at all times for side access to the rear of the property for fire safety reasons.

Section 3. It is a condition of this variance that full, complete, and final application for all conditions of this approval for any use and occupancy for which this variance is wholly or partly necessary, shall be submitted in their entirety within two years after the date hereof; and further, that no application shall be made after expiration of the two-year period without the applicant obtaining an extension from the Planning Board and demonstrating that no change of circumstances to the property or its underlying zoning has occurred.

Section 4. The failure to fully and completely apply the conditions of approval for permits for use and occupancy pursuant to this variance in accordance with the terms of and as described in Section 3 hereof, shall immediately operate to terminate this variance, which variance shall be of no force or effect.

Section 5. This variance does not constitute a finding as to ownership or right to possession of the property, and assumes, without finding, the correctness of applicant's assertion of legal

 Chairman

 Planning Director

authority respecting the property.

Section 6. This Resolution shall go into effect immediately upon its passage and adoption and authentication by the signatures of the presiding officer and the Clerk of the Commission.

Section 7. This resolution is subject to appeal periods as provided by the City of Key West Code of Ordinances (including the Land Development Regulations). After the City appeal period has expired, this permit or development order will be rendered to the Florida Department of Community Affairs. Pursuant to Chapter 9J-1, F.A.C., this permit or development order is not effective for forty five (45) days after it has been properly rendered to the DEO with all exhibits and applications attached to or incorporated by reference in this approval; that within the forty five (45) day review period the DEO can appeal the permit or development order to the Florida Land and Water Adjudicatory Commission; and that such an appeal stays the effectiveness of the permit until the appeal is resolved by agreement or order.

 Chairman

 Planning Director

Read and passed on first reading at a regularly scheduled meeting held this 21st day of February, 2013.

Authenticated by the Chairman of the Planning Board and the Planning Director.



Richard Klitenick, Chairman
Key West Planning Board

3/5/13

Date

Attest:

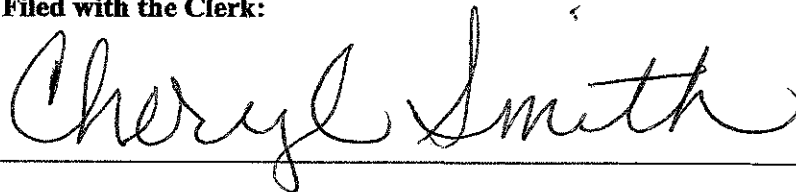


Donald Leland Craig, AICP, Planning Director

2-28-13

Date

Filed with the Clerk:



Cheryl Smith, City Clerk

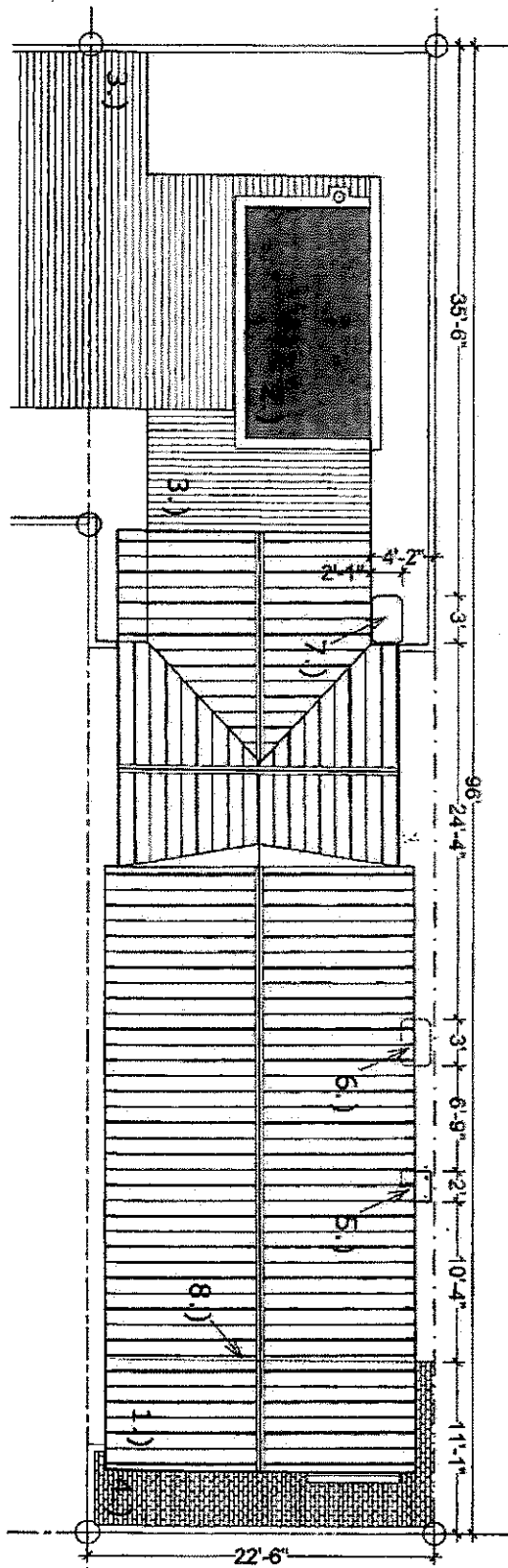
3-6-2013

Date

_____ Chairman

_____ Planning Director

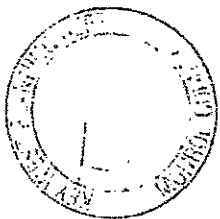
- 1.) EXISTING TWO-STORY, WOOD-FRAME STRUCTURE.
- 2.) EXISTING IN-GROUND POOL.
- 3.) EXISTING WOOD DECKING.
- 4.) EXISTING BRICK PAVERS.
- 5.) EXISTING 24" X 24" A/C UNIT LOCATION.
- 6.) EXISTING 24" X 36" A/C UNIT LOCATION.
- 7.) PROPOSED 24" X 36" A/C UNIT RELOCATION.
- 8.) MARGARET STREET FACADE.



NOTE: THIS PLAN WAS CREATED REFERENCE A SURVEY BY J. LYNN O'LYNN, INC.; DATED: 11.30.2005. IN ADDITION TO FIELD MEASUREMENTS OF THE 2008 RENOVATIONS TO THE RESIDENCE.

EXISTING SITE PLAN

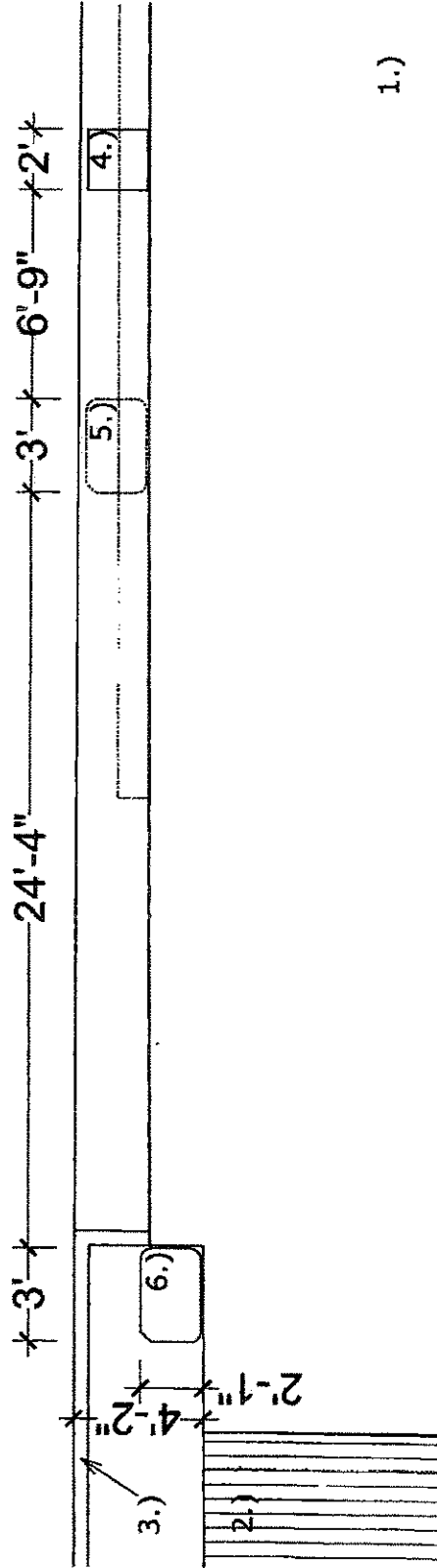
SCALE: 3/32" = 1'-0"



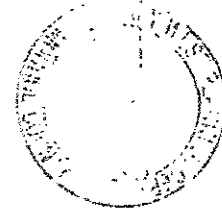
OC MK



- 1.) EXISTING TWO-STORY, WOOD-FRAME STRUCTURE.
- 2.) EXISTING WOOD DECKING.
- 3.) EXISTING WOOD FENCE (ON PROPERTY LINE).
- 4.) EXISTING 24"X 24" A/C UNIT LOCATION.
- 5.) EXISTING 24" X 36" A/C UNIT LOCATION.
- 6.) PROPOSED 24" X 36" A/C UNIT RELOCATION.



1.)



FLOOR PLAN DETAIL

SCALE: 3/16" = 1'-0"



NOTE: THIS PLAN WAS CREATED REFERRING A SURVEY BY 1. LYNN O'FLYNN, INC.; DATED: 11.30.2005. IN ADDITION TO FIELD MEASUREMENTS OF THE 2008 RENOVATIONS TO THE RESIDENCE.

A/C UNIT RELOCATION

510 MARGARET STREET
KEY WEST, FLORIDA 33040
HORTON RESIDENCE

OF 3

02.11.2013

